

**Senate File 2224 - Introduced**

SENATE FILE 2224

BY CHELGREN

**A BILL FOR**

1 An Act relating to nonparent visitation.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1.   NEW SECTION.   598D.1   Definitions.

2     As used in this chapter, unless the context otherwise  
3 requires:

4     1.   *"Adult"* means an individual who has attained eighteen  
5 years of age or is an emancipated minor.

6     2.   *"Caretaking authority"* means the right to live with and  
7 care for a child on a day-to-day basis.   *"Caretaking authority"*,  
8 relative to a child, includes physical custody, parenting time,  
9 right to access, and visitation.

10    3.   *"Child"* means an unemancipated individual who has not  
11 attained eighteen years of age, and who is not the subject of a  
12 child in need of assistance action.

13    4.   *"Close and substantial relationship"* means a relationship  
14 in which a significant bond exists between a child and a  
15 nonparent.

16    5.   *"Court"* means the juvenile court or district court with  
17 jurisdiction to make, enforce, or modify a decision regarding  
18 custodial responsibility.

19    6.   *"Custodial responsibility"* includes all powers and duties  
20 relating to caretaking authority and decision-making authority  
21 for a child.   *"Custodial responsibility"* includes physical  
22 custody, legal custody, parenting time, right to access, and  
23 visitation.

24    7.   *"Decision-making authority"* means the power to make  
25 important decisions regarding a child, including decisions  
26 regarding the child's education, religious training, health  
27 care, extracurricular activities, and travel.   *"Decision-making  
28 authority"* does not include the power to make decisions that  
29 necessarily accompany a grant of caretaking authority.

30    8.   *"Family member"* means a sibling, aunt, uncle, cousin,  
31 stepparent, or grandparent of a child or an individual  
32 recognized to be in a familial relationship with a child under  
33 a law of this state other than this chapter.

34    9.   *"Nonparent"* means an adult other than a parent of the  
35 child.

1     Sec. 2. NEW SECTION.   **598D.2 Nonparent visitation.**

2     1. *a.* If a parent of a child has previously voluntarily  
3 relinquished custodial care of the child to an adult nonparent  
4 for a period of six consecutive months or more during a period  
5 of absence of the parent or as the result of impaired judgment  
6 of a parent, and the nonparent has a close and substantial  
7 relationship with the child, the nonparent shall have standing  
8 to petition the court for visitation with the child if the  
9 parent subsequently unreasonably denies the nonparent access  
10 to the child.

11    *b.* Impaired judgment of a parent may be evidenced by any of  
12 but not limited to the following:

13     (1) Neglect of the child.

14     (2) Abuse of the child.

15     (3) Violence toward the child.

16     (4) Indifference or absence of feeling toward the child.

17     (5) Demonstrated unwillingness and inability to promote the  
18 emotional and physical well-being of the child.

19     (6) Drug abuse.

20     (7) A diagnosis of mental illness.

21    2. The court shall grant visitation if the court finds all  
22 of the following by clear and convincing evidence:

23     *a.* That visitation is in the best interest of the child.

24     *b.* That the unreasonable denial of visitation by a parent  
25 will cause undue mental, physical, or emotional harm to the  
26 child.

27     *c.* That the relative benefit to the child of granting  
28 visitation greatly outweighs any effect on the parent-child  
29 relationship.

30    3. In determining the best interest of the child, the court  
31 shall consider all of the following:

32     *a.* The geographical location of the nonparent's residence  
33 and the distance between the nonparent's residence and the  
34 child's residence.

35     *b.* The child's and parent's available time, including but

1 not limited to the parent's employment schedule, the child's  
2 school schedule, the amount of time that will be available  
3 for the child to spend with siblings, and the child's and the  
4 parent's holiday and vacation schedules.

5 *c.* The age of the child, and if the child is fourteen years  
6 of age or older, the wishes and concerns of the child regarding  
7 visitation with the nonparent.

8 *d.* The health and safety of the child.

9 *e.* The mental and physical health of all parties.

10 *f.* Whether the nonparent previously has been convicted of  
11 or pleaded guilty to any criminal offense involving any act  
12 that resulted in a child being an abused child or a neglected  
13 child; whether the nonparent previously has been convicted of  
14 or pleaded guilty to a crime involving a victim who at the time  
15 of the commission of the offense was a member of the family or  
16 household that is the subject of the current proceeding; and  
17 whether there is reason to believe that the nonparent has acted  
18 in a manner resulting in a child having ever been found to be an  
19 abused child or a neglected child.

20 *g.* The wishes and concerns of the child's parent, as  
21 expressed by the parent to the court.

22 *h.* Whether the relative benefit to the child of granting  
23 access and visitation greatly outweighs any effect on the  
24 parent-child relationship.

25 *i.* Any other factor in the best interest of the child.

26 4. Venue for any action to establish, enforce, or modify  
27 visitation under this section shall be in the county where the  
28 child resides.

29 5. Notice of any proceeding to establish, enforce, or  
30 modify visitation under this section shall be personally served  
31 upon the parent of the child whose interests are affected by a  
32 proceeding brought pursuant to this section.

33 6. This section shall not apply if the child is the subject  
34 of a proceeding under chapter 232.

35

EXPLANATION

1           The inclusion of this explanation does not constitute agreement with  
2           the explanation's substance by the members of the general assembly.

3       This bill provides standing for certain nonparents to  
4 petition for visitation of a child.

5       The bill provides that if a parent of a child has previously  
6 voluntarily relinquished custodial care of the child to a  
7 nonparent for a period of six consecutive months or more  
8 during a period of absence of the parent or as the result of  
9 impaired judgment of a parent, and the nonparent has a close  
10 and substantial relationship with the child, the nonparent  
11 shall have standing to petition the court for visitation with  
12 the child if the parent subsequently unreasonably denies the  
13 nonparent access to the child. Under the bill, the court shall  
14 grant visitation if the court finds, by clear and convincing  
15 evidence, that visitation is in the best interest of the  
16 child; that the unreasonable denial of visitation by a parent  
17 will cause undue mental, physical, or emotional harm to the  
18 child; and that the relative benefit to the child of granting  
19 visitation greatly outweighs any effect on the parent-child  
20 relationship.

21       The bill provides definitions and specifies the factors  
22 the court shall consider in determining the best interest of  
23 the child, provides for venue, and provides for notice of the  
24 parents of the child.

25       The bill does not apply if the child is the subject of a  
26 proceeding under Code chapter 232 (juvenile justice).